

REMARKS

FORMAL MATTERS:

Claims 1-4, 6-13, 17, 20, 24, 27, 28, 45-49, 51-53 and 55-57 were examined and rejected. Claims 5, 14-16, 18, 19, 21-23, 25, 26, 29-44, 50, 54 and 58-62 were withdrawn from consideration.

By this Amendment, claims 1, 2, 9, 10 and 45 have been amended. Support for these amendments is found throughout the specification, the original claims and the drawings.

Claims 1-62 remain pending after entry of the amendments set forth herein, with claims 5, 14-16, 18, 19, 21-23, 25, 26, 29-44, 50, 54 and 58-62 being withdrawn.

DOUBLE PATENTING

Claims 1, 2, 27, 28 and 45 are provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 16 and 17 of copending U.S. Patent Application Serial No. 10/884,015. As this rejection is provisional, Applicants wish to wait upon allowance of claims in either the present application or '015 application before submitting a Terminal Disclaimer.

Applicants note in the Conclusion section of the Office Action the request for a list of all copending applications that set forth similar subject matter to the present claims. The only other copending application which sets forth similar subject matter is U.S. Patent Application Serial No. 10/884,015 (cited in the double patenting rejection above) and a corresponding International Patent Application No. PCT/US2004/021449 which includes claims identical to those presented in the U.S. application. As the Examiner is in possession of those claims, a copy of the claims is not herein being provided.

REJECTIONS UNDER §112, ¶2

Claims 9 and 10 were rejected under 35 U.S.C. §112, ¶2, as being indefinite. In particular, the terms “sting-like” and “ribbon-like” were considered indefinite. These terms have been replaced with alternate language which the Applicants believe meets the requirements of 35 U.S.C. §112.

REJECTIONS UNDER §102

Claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by Mahmoodi (WO 98/18411). As amended, claim 1 is directed to implantable device for repairing a cardiac valve where the devices comprises a ring for attachment to the valve annulus, and a restraining structure coupled to said ring and extending generally within at least a portion of the interior plane defined by the ring for restraining abnormal motion of at least a portion of one valve leaflet. Mahmoodi's ring is defined by hoops 10 and 12 and struts 14 and 16. Mahmoodi does not disclose a ring having a structure extending generally within at least a portion of the interior plane defined by the ring. In fact, there is no structure at all which extends within the interior of Mahmoodi's ring. Accordingly, Mahmoodi does not anticipate the subject matter of claim 1. Withdrawal of this rejection is respectfully requested.

Claims 1-3, 6-12, 27, 45-49 and 53 were rejected under 35 U.S.C. §102(b) as being anticipated by Gabbay (WO 01/89418). In the Office Action, it appears that the buttress (20) of Gabbay's device is being characterized as corresponding to the claimed restraining structure (claims 1-3, 6-12, 27) and the claimed "at least one member" (claims 45-49, 53). As amended, independent claims 1 and 45 require the restraining structure/member to extend generally within at least a portion of the interior plane defined by the ring. On page 6, lines 8-9 of Gabbay, the buttress is described as extending "generally axially from and radially outwardly relative to the outflow side 18 of the base portion 12." As illustrated in Figs. 11 and 12 of Gabbay, when implanted within the mitral valve, the buttress 20 extends into the left ventricle 306, i.e., outside the interior plane defined by base portion 12, to function as a prosthetic posterior leaflet. Accordingly, Gabbay does not anticipate the subject matter of claims 1-3, 6-12, 27, 45-49 and 53. Withdrawal of this rejection is respectfully requested.

Claims 1-4, 9-13, 17, 20, 24, 27, 28, 45, 46, 51, 52 and 57 were rejected under 35 U.S.C. §102(b) as being anticipated by Bessler et al. (WO 01/47438). In the Office Action, Bessler's template 206 is being characterized as corresponding to the claimed restraining structure (claims 1-4, 9-13, 20, 24, 27, 28), the claimed "at least one member" (claims 45, 46, 51, 52) and the claimed plurality of cross-members (claim 57). These components are part of the claimed implantable device which are implanted along with the ring. Bessler's template 206 is part of an instrument used to insert and position an annuloplasty ring 200 within a valve annulus, and it is detached from the ring after the ring is positioned within the annulus. As such, it is not part of the ring itself nor something which is left implanted within the valve. Accordingly, Bessler et al. do not anticipate the subject matter of claims 1-4, 9-13, 17, 20, 24, 27, 28, 45, 46, 51, 52 and 57. Withdrawal of this rejection is respectfully requested.

REJECTIONS UNDER §103

Claims 55 and 56 were rejected under 35 U.S.C. §102(b) as being unpatentable over Bessler et al. in view of Solem et al. (6,210,432). For at least the reasons stated above traversing the rejection of claim 45 as being anticipated by Bessler et al. and because Solem et al. does not make up for the deficiencies of Bessler et al., claims 55 and 56, which are dependent upon claim 45, are not unpatentable over Bessler et al. in view of Solem et al. Withdrawal of this rejection is respectfully requested.

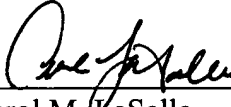
CONCLUSION

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number FLEX-001.

Respectfully submitted,
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Date: 04/14/05

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